



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/168707

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to Medical Assistance, a hearing was held on October 06, 2015, at Fond Du Lac, Wisconsin.

The issue for determination is whether Petitioner was overpaid BadgerCare+ benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Deborah Bohlman

Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.
2. Petitioner was sent a BadgerCare+ overpayment notice dated August 27, 2015. It informed Petitioner that she had been overissued BadgerCare+ benefits in the amount of \$384.00 for the month of May

2015. The reason for the alleged overpayment is that Petitioner failed to report that she was [REDACTED]

3. Petitioner was convicted of a felony in [REDACTED] on March 18, 2015 and sentenced to 1 year in the [REDACTED] system. He sentence commenced on or about March 30, 2015.
4. The agency learned of Petitioner's [REDACTED] via a [REDACTED] match.
5. The \$384.00 overpayment consists of the capitation payment made by the State for Petitioner's health care, that is, the premium paid by the State to an HMO for Petitioner's health coverage.

DISCUSSION

The Department may recover any overpayment of medical assistance that occurs because of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665 [BadgerCare].
 2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
 3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.
- Wis. Stat. § 49.497(1).*

I am sustaining the overissuance involved here. Petitioner was not BadgerCare+ eligible as of her [REDACTED]. See *BEH*, §2.4.1. Further, a BadgerCare+ recipient is required to report changes in address within 10 days of the change. See *BadgerCare+ Eligibility Handbook*, § 27.2. Had Petitioner done so here the report would have caused Petitioner's BadgerCare+ case to close effective May 1, 2015. Notices of Decision (See Exhibit # 4) did inform her of the need to report. Petitioner argues that it was not possible for her to call from the [REDACTED] system. While being [REDACTED] may have made it difficult to report via phone, Petitioner could have enlisted the help of the [REDACTED] social work staff or written the county social service agency or the BadgerCare+ program. Regardless, the responsibility to report the change was Petitioner's; this was not agency error and the failure to report creates the overpayment.

CONCLUSIONS OF LAW

That the agency has presented evidence sufficient to demonstrate that Petitioner was overpaid BadgerCare+ benefits as alleged.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of November, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 24, 2015.

Fond Du Lac County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability